Noes.

1	Mr. I. E. Ambooken	10	Mr. A. K. Kunhi Moideen
2	Mr. A. L. Antony	11	Mr. C. V. Kuriyan
3	Mr. K. J. Antony	12	Mr. C. J. Mathew
4	Mr. K. Ayyappan	13	Mr. K. Mohamed Seethi
5	Mr. M. A. Chakko	14	Mr. V. D. Ouseph
6	Dr. A. G. Menon	15	Mr. Ouseph P. Kundukulam
7	Mr. K. P. Kannan Nayar	16	Mr. M. K. Raman
8	Mr. P. Krishna Menon	17	Mr. A. B. Salem
9	Mr. P. Kumaran Ezhuthassan	18	Mr. Thomas Manjuran

Neutral.

Mr. V. V. Anantapadmanabha Ayyar.

Mr. T. K. Krishna Menon.—20 for, 18 against and one neutral.

Deputy President.—20 for, 18 against and one neutral.

Mr. V. D. Ouseph.—I think the Secretary will have to announce. The Secretary should advertise.

Mr. T. K. Krishna Menon.—It is not the work of the Secretary to advertise things.

Deputy President.—Some of those who were here did not vote at the beginning.

Dr. A. R. Menon.—I want a ruling whether the Chair's ruling is liable to be challenged by any Member?

Deputy President.—If I am satisfied that it is a mistake?

Mr. C. J. Mathew.—Nobody challenged also.

Dr. A. R. Menon.—When once you give the number, the number may be wrong, it should not be changed.

Deputy President.—There was room for mistake. Some stood up, some did not stand up, some did not vote at the beginning, those who voted for voted against.

8. Bill to amend the Cochin Code of Criminal Procedure.

Deputy President.— The next is Mr. C. A. Kunjunni Raja's Bill.

Mr. C. A. Kunjunni Raja.—I move that the Bill to amend the Cochin Criminal Procedure Code be read in Council.

Mr. A. Eachara Menon.—I beg to second it.

Mr. C. A. Kunjunni Raja.—The objects and reasons are sufficiently clear, and I don't think that anything more can usefully be added. This Council need not be told about the advantages of a Jury trial. The main purpose of the enactment is to introduce the system of trial by Jury as in all civilized countries. In British India the Government have introduced in some districts trial by Jury and in some districts trial with the aid of assessors. Cochin is a highly educated country and our people are fit to be given the privilege. We can start with assessors.

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Dr. A. R. Menon.—Sir, I rise to oppose this, and I wish to assign reasons why I am opposing the system of Juries. The system of Juries should not be introduced in a country like Cochin. The system, while it is found to be thriving in certain countries, is found to be an absolute and disastrous failure in other countries. It depends to a very great extent upon the nature of the people. It is successful in countries where people are more business-like and where they do not allow the sentiment to meddle with public affairs or with legal affairs. To quote an example, while it has been found to be very successful in England, even though there is difference of opinion among the Judges, where the whole system is after all a blessing, it is found to be a disastrous failure in Latin countries, because the latter people are more emotional, and they bring in the element of emotion when sitting over judgment on their fellow beings.

Mr. A. B. Salem.—You are very calculative.

Dr. A. R. Menon.—Whereas a Judge who is well trained and who has succeeded to a very great extent by experience to control his own feeling would be a more sound person to be entrusted with the lives and liberties of our people than an emotional gang of men who sit in judgment upon the members. Further the system can only be introduced in a very civilized country, and in a limited sense; as the Chief Medical and Sanitary Officer observed, we are not civilised in that sense.

Diwan Bahadur Dr. V. Verghese.—Not in this sense I suppose.

Dr. A. R. Menon.—You said in another sense about sanitation. And the third point is that, when all is said and done, our people are not gifted with that sense of public duty which we see elsewhere in European countries, where this system exists. Here the question always arises what is the use of this work. Does it do any good? It is never considered whether this work does any good to the community at large. But how does it profit? That is the mentality of the generality of the people. In a country like this, it is very dangerous to introduce the Jury system. What will you think of the people who sometimes thought that a square dinner to the Members of this Council might influence to some extent their ideas, their sentiment and their voting, especially when the question is *sub judice*, and when the question is to be decided by this Council? Now it will be understood clearly that the Members who were recruited to this Council, we must take it for granted, belong to the decent class of the society in the State, and if the people think that the Members of this decent class of society could be influenced by these measures,—they may think, I don't think they

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do, they are influenced,—if they are liable to think so, it is a possibility, what will be the state of the ignorant body of jurors ? The success of the Jury system, the fundamental principle of it is that you should bring in such men who are well versed with the legal procedure. That is the fundamental procedure of the Jury system. The learned Counsel and the Judges would be in a position to convince even ignorant men about the guilt of a person. Therefore, it follows that you should select men of only moderate means to serve on the Jury. As I said, in this country, if you introduce the Jury system, every method, every measure that is known to human ingenuity will be resorted to by influence. Further there is another point apart from that,—it is special to this place—almost all the questions will be viewed from a communal basis which we may repudiate or regret for. If we introduce this system, I shall live to see that the conviction or acquittal of a prisoner will depend on the community of the prisoner. That is applicable to all. If you have a Hindu Jury, and a Hindu convict is placed before it, the likelihood is that the Jury will find out a way to acquit him. So also a Christian or any other. It is not a pleasant thing to talk out. But we must place such facts when it concerns a question of such vital importance.

Mr. Thomas Manjuran.—Does it apply to the Judges too ?

Dr. A. R. Menon.—I will be the last person to attribute any motive to the Judges. I have said nothing that would be taken exception of by any Judge. On the other hand, the Judges, I am sure, will be only too glad that they have never been besmirched in this Council at least by me. Even the very question is absurd and unnecessary that there is an implied suggestion that we attribute motives to the Judges. I am speaking this because it comes from a legal Member.

Mr. Thomas Manjuran.—The suggestion is the other way.

Dr. A. R. Menon.—The suggestion is so pernicious that it ought not to have come from a legal Member.

Mr. Thomas Manjuran.—The suggestion is just the other way that you are calumniating the country.

Dr. A. R. Menon.—Judges who are well versed in law are the proper persons and not the emotional gang that inhabit the country who are torn by communal passions and who are torn by prejudice. Therefore, the Government will be taking a retrograde step, if they yield to the arguments advanced in favour of the Jury system. For the reasons I have stated briefly I entirely oppose this measure.

Mr. A. Sankara Menon.—I also oppose this motion. The object of the Bill is to associate the people in the administration

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of criminal justice. So far as that principle is concerned, nobody can be against it. But the trial by Jury cannot be said to be an unmixed good. Public opinion is not entirely in favour of the Bill. So far as the results of the present administration of criminal justice, the Member in charge of the Bill has absolutely nothing to complain. In these circumstances Government don't think it necessary that the present procedure should be changed.

Dr. A. G. Menon.—How did you ascertain public opinion, Sir?

Mr. A. Sankara Menon.—One Member is sufficient for my purpose. I said it is not *entirely* in favour of the Bill.

Mr. A. B. Salem.—I rise to support the Bill. In my opinion the Hon'ble Member for Trichur cannot be credited with a correct reading of the advancement of the people of Cochin. I have very great respect for him. But I cannot make up my mind to agree with him. Nay, I dissent from him completely, so completely that I think neither the Hindu nor the Christian would agree with him. To say that the Christians, if they are in the Jury, would acquit all the culprits of the Christians or that the Hindu will acquit all the culprits of the Hindus would be taken by the country as an insult to their fairmindedness and their judgment (*hear, hear*). I would tell the Hon'ble Member for Trichur that none will let culprits escape at any time and in any country. The Hindus and the Christians also will not do so.

Mr. Thomas Manjuran.—Jews?

Mr. A. B. Salem.—Jews too. Lord Reading ruled as Chief Justice in England. You have heard here in this country the same story, as you have heard from the Hon'ble Member, through the lips of Sir C. Sankaran Nayar that the European Jury, coming from a civilized country, would acquit Europeans. Justice cannot be had from a European Jury to an Indian. If a European alone is concerned, he will be impartial. That was openly said, and it was published in the Review of Reviews. But such things will not prevail. You may say there are such things. Surely all our Judges who have been recruited from our own people have been recruited either from the Christian or the Hindu community. And nobody has ever thought (the Member for Trichur himself, even to-day, does not seem to say) that they lean against justice to show favour to their people. What is the ground to think that the Jury will give a wrong verdict? What if the Jury gives a wrong verdict? My Hon'ble Member does not understand that the Judge presiding is not bound to accept the verdict of the Jury. If it is perverse, the Judge can at once say I do not accept the verdict. I think my

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Hon'ble Member does not understand that, and he is not expected to know it as he is not a lawyer. Moreover a Jury is challenged also. If the accused think that the juror may be prejudiced one way or the other, may be biassed one way or the other, may be bought one way or the other, may be influenced one way or the other, he has got a right to challenge him and send him out. Men will come and go. That is the procedure of impanelling a Jury. Without knowing all these things, simply to stand and say on account of the weakness of certain persons that all are found wanting is not correct. If a few are found bad, is that any reason for demeaning the whole country? There are honourable and decent men. To say that certain Members of this House at certain times had a dinner and voted on account of the dinner,....

Dr. A. R. Menon.—I never said that.

Mr. A. B. Salem.—You did mention that a good dinner is ample to change the attitude of persons.

Dr. A. R. Menon.—On a point of order. What I said was there are people who go to the length of thinking that a square dinner may influence Members who are uncorruptible.

Mr. A. B. Salem.—You are one best instance of that. Surely all these things we know. The common saying in India to-day is that the Englishman can only be reached through his stomach or through his pocket. If his stomach is fed well, he will feel well. These things will take place. The view of the Hon'ble Member for Trichur I controvert with all the vehemence that I can. I think the Jury system is a good system for our country with an education which is nowhere prevalent.

Mr. Thomas Manjuran.—Sir, I rise to oppose this Bill. I would not have risen at all. I would have silently voted but for the fact that certain insinuations were levelled against the public gentlemen of Cochin by the Member for Trichur. I do certainly oppose; but my reasons are far different from the reasons propounded by the Hon'ble Member for Trichur. To say that, in these days, when the whole of India is trying to get Dominion Status and more, when the whole of India, or is it only half of India, is trying to get *Swaraj*,..... ...

Mr. A. B. Salem.—Seven-eighths.

Mr. Thomas Manjuran.—Very well, seven-eighths; when I have reason to believe that the Hon'ble Member for Trichur himself is in his own way trying to achieve that ideal, on what basis is he working? Is he working on a basis of mutual distrust, mutual unreliableness, mutual unworthiness, because, if the proposition that he laid down, the description that he gave us, is true, what is the implication? Granting that we

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got *Swaraj* or Dominion Status, that he is working for, what would be the result? Is it consistent to agitate for Dominion Status and self-Government outside the Council when he goes on running down the people of this country for being communal, unreliable, stomach-loving and in fact altogether worthless? I am not a Swarajist. But I do say that our people are not so bad as my Hon'ble friend for Trichur wants to make them out. If the educated people of Cochin can be put down as rogues, what about the uneducated, less educated, less advanced people of India? I am sure, if the Hon'ble Member for Trichur had thought about the implications of his words, he would never have uttered them. My opposition to the Bill is not based on such baseless grounds; nor would I presume to abuse the whole nation and the whole community on flimsy grounds like that. My objection is based on other matters. The Jury system, with all its great merits, stands to-day the result of generations of achievements. As my Hon'ble Member for Trichur stated, in the Latin countries it is more or less admitted that the Jury system is a failure, and perhaps he has hit at the proper reason too. The people of those countries are far more emotional than those of the Anglo-Saxon countries. In England the Jury system has been working for centuries and centuries. Even there it is not all that is to be desired. In India, especially in Cochin, I think that, if this system is introduced, the very smallness of our State, the very want of extent of this country may defeat the ends aimed at. There is also almost entire lack of public education on the matter. Before we introduce the Jury system at all, there should be a period of publicity, a period of education, among the general public, so that the public may understand what it is and may effectually co-operate. I don't think our country is quite ripe for it.

Mr. A. B. Salem.—It is working well in Madras, Bombay and Calcutta.

Question proposed: *That the Bill to amend the Cochin Code of Criminal Procedure be read in Council.*

Question put and negatived.

9. Cochin Transfer of Property Bill.

Mr. C. A. Kunjunni Raja.—I move that the Cochin Transfer of Property Bill be read in Council.

Dr. A. G. Menon.—I beg to second it.

Mr. C. A. Kunjunni Raja.—In the absence of a proper enactment Cochin courts are applying the principles of the Transfer of Property Act in administering justice. The Administration Reports show the Darbar was feeling the necessity of legislation on the subject. My Bill is an adaptation of the British

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